

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Carmen Lamberty 128 Tunison Road New Brunswick, NJ 08901</p> <p>(b) County of Residence of First Listed Plaintiff <u>Middlesex</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p>		<p>DEFENDANTS Metropolitan Life Insurance Company 200 Park Avenue New York, NY 10166</p> <p>County of Residence of First Listed Defendant <u>New York</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p>																							
<p>(c) Attorneys (Firm Name, Address, and Telephone Number) Linda M. Lopez, Law Office of Eric A. Shore 2 Penn Center, 1500 JFK Blvd, Suite 1240, Philadelphia, PA 19102 Tel: 215-627-9999</p>		<p>Attorneys <i>(If Known)</i></p>																							
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<p>VI. CAUSE OF ACTION</p>		<p>CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.</p>																							
<p>VII. REQUESTED IN COMPLAINT:</p>		<p><input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.</p>		<p>DEMAND \$ 150000</p>	<p>CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>																				
<p>VIII. RELATED CASE(S) IF ANY</p>		<p><i>(See instructions):</i> JUDGE _____ DOCKET NUMBER _____</p>																							
<p>DATE 5/29/2020</p>		<p>SIGNATURE OF ATTORNEY OF RECORD <i>Linda Lopez</i></p>																							
<p>FOR OFFICE USE ONLY</p>																									

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CARMEN LAMBERTY,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	No.
	:	
METROPOLITAN LIFE	:	
INSURANCE COMPANY,	:	
	:	
Defendant.	:	

CIVIL ACTION COMPLAINT

Plaintiff, CARMEN LAMBERTY, by and through her attorney, Linda M. Lopez, Esq. of the Law Offices of Eric A. Shore, P.C., as and for her Complaint against Defendant, METROPOLITAN LIFE INSURANCE COMPANY, hereby avers as follows:

PARTIES

1. Plaintiff, CARMEN LAMBERTY (hereinafter "Plaintiff"), was and still is a citizen and resident of the State of New Jersey, residing at 128 Tunison Road, New Brunswick, New Jersey 08901.
2. Defendant, METROPOLITAN LIFE INSURANCE COMPANY (hereinafter "Defendant"), has corporate offices at 200 Park Avenue, New York, New York 10166.

JURISDICTION

3. Jurisdiction of the Court is based upon 29 U.S.C. §§ 1132(e)(1) and 1132(f), which give the District Courts jurisdiction to hear civil actions brought to recover benefits due under the terms of an employee welfare benefit plan. Jurisdiction is also founded on 28 U.S.C. §

1331 because this action arises under 29 U.S.C. § 1001, *et. seq.* (Employee Retirement Income Security Act of 1974, hereinafter “ERISA”).

4. Venue in the District of New Jersey is appropriate because Defendant conducts business and is subject to personal jurisdiction in the judicial district and maintains contacts in the judicial district sufficient to subject it to personal jurisdiction.

5. Pursuant to 28 U.S.C. § 1391(a)(1) and § 1391(c), this action is properly venued in the District of New Jersey.

FACTS

6. At all times hereinafter mentioned, Plaintiff was employed as fraud specialist in a GWIM Sr. Operations Analyst position for Bank of America, and at all times was a participant and/or beneficiary under the Long Term Disability (“LTD”) plan.

7. Plaintiff had a strong work history working for Bank of America prior to filing for LTD insurance benefits.

8. The LTD plan is an employee welfare benefit plan specifically covered under ERISA, 29 U.S.C. § 1002(2)(A).

9. At all times material herein, Defendant made and/or participated in making all benefits decisions under the LTD plan.

10. During Plaintiff’s employment with Bank of America, Defendant issued a long term group disability income policy (hereinafter the “Policy”).

11. At all times hereinafter mentioned, said Policy of insurance was issued for the benefit of certain eligible employees in exchange for the payment of premiums by Bank of America and/or its employees.

12. At all times mentioned herein, Plaintiff was and is an employee eligible for long term disability benefits as an insured under the Policy.

13. Said Policy provided, among other things, that long term disability insurance benefit payments will be made to Plaintiff in the event that she becomes disabled as a result of injury or sickness. The Policy states, in part, that:

Disabled or Disability means that, due to Sickness or as a direct result of accidental injury: ... You are unable to earn in the first 24 months of Sickness or accidental injury, more than 80% of Your Predisability Earnings at Your Own Occupation from any employer in Your Local Economy.

14. Plaintiff stopped working on November 19, 2018, and applied for LTD insurance benefits.

15. By letter dated June 11, 2019, Defendant notified Plaintiff that her claim for LTD benefits was denied.

16. On December 5, 2019, Plaintiff submitted a written appeal of Defendant's adverse determination.

17. On March 5, 2020, Defendant issued a final administrative denial of Plaintiff's claim for LTD benefits.

18. As of November 19, 2018, Plaintiff's LTD coverage was in full force and effect and Plaintiff was an eligible employee.

19. From November 19, 2018 to the present, Plaintiff has been disabled within the meaning and pursuant to the terms of her Policy coverage as she is unable to perform, on a sustained basis, either her own or any reasonable occupation, as those terms are defined in the subject Policy.

20. Plaintiff's disability is caused by Complex Regional Pain Syndrome, multilevel lumbar disc herniations with nerve root compression, lumbar radiculopathy, facet arthropathy,

tarsal tunnel syndrome of the left lower extremity, medial plantar neuropathy, lesion of the plantar nerve, anxiety and depression, with resultant symptoms of pain, numbness, tingling, stiffness, weakness, auditory hallucinations, insomnia, loss of appetite, and trouble with focus and concentration, all of which necessitates the need for frequent breaks for rest and symptom control.

21. Plaintiff cooperated with the Defendant in all respects, provided proper proof of loss in support of her claim, and otherwise complied with the terms and conditions of the Policy regarding the filing and maintenance of the claim.

22. Pursuant to the Policy, Defendant has been obligated to pay monthly long term disability benefits to Plaintiff since November 19, 2018.

23. Despite Plaintiff's continued total disability, Defendant has denied all LTD insurance benefit payments to Plaintiff since November 19, 2018 and continues to refuse to pay benefits pursuant to the Policy, although payment thereof has been duly demanded.

24. Said refusal on the part of the Defendant is a willful and wrongful breach of the Policy's terms and conditions.

25. Defendant afforded little weight to the opinions of Plaintiff's treating physicians who clearly opined that she has been unable to work since November 19, 2018, due to her disabling conditions and complications from her impairments and medical conditions.

26. Defendant's denial of Plaintiff's disability insurance benefits is unreasonable and unsupported by substantial evidence and, as such, constitutes a breach of its fiduciary duty.

27. Defendant's unreasonable and unsupported denial of Plaintiff's disability insurance benefits is evidenced by the number of procedural irregularities in its claim handling, including but not limited to: the failure to consider the impact of Plaintiff's physical and mental

conditions and limitations on her ability to perform all of the essential duties of her regular occupation or any occupation; the refusal to consider Plaintiff's credible subjective complaints about her inability to work; the reliance upon a selective review of medical records to reach a result oriented claim determination; the failure to utilize appropriately qualified and unbiased medical personnel to reach decisions and/or render opinions on levels of impairment; the biased and flawed vocational consideration on Plaintiff's claim; the failure to perform a fair and neutral evaluation of Plaintiff's medical condition and associated restrictions and limitations; and other biased claim handling.

28. Defendant's claim handling resulted in numerous violations of 29 C.F.R. § 2560.503-1, *et. seq.*

29. Defendant's claim handling failed to provide Plaintiff with a full and fair review of her claim.

30. Defendant's claim handling demonstrates a bias against Plaintiff's claim due to its impact on Defendant's financial situation and frustrated Plaintiff from receiving a full and fair review of her claim.

31. Plaintiff has attempted to exhaust all administrative appeals and remedies to the extent they exist pursuant to the conditions of the employee benefit plan.

32. By reason of the foregoing claims conduct, Defendant failed, by operation of law, to establish and follow reasonable claims procedures that would yield a decision on the merits of her claim pursuant to 29 C.F.R. § 2560.503(1).

33. Because Defendant failed to satisfy the minimal procedural safeguards set forth in 29 C.F.R. § 2560.503(1), Defendant's adverse benefit determination is not entitled to any judicial deference.

34. Defendant willfully failed to comply with ERISA regulations.
35. Monthly disability insurance benefit payments to Plaintiff are continuing to be due and payable by Defendant with the passage of each month.
36. Plaintiff is entitled to receive the total life-time benefit of the plan discounted to present value, due to Defendant's arbitrary and capricious decision to deny Plaintiff's benefits.
37. Plaintiff is entitled to receive, in addition to the benefits due under the plan of insurance, reimbursement for reasonable attorney's fees and costs of this action pursuant to 29 U.S.C. 1132(g).

WHEREFORE, Plaintiff, Carmen Lamberty, demands judgment in her favor and against Defendant together for:

- A. Payment of all benefits in arrears due and owing since the denial of benefits, plus interest;
- B. The total lifetime benefit under the plan discounted to present value;
- C. Attorneys' fees and costs of suit;
- D. Interest and delay damages; and,
- E. Any other further relief this Court deems just proper and equitable.

By:


Linda M. Lopez, Esq.
Attorney I.D. No. 017592006
LAW OFFICES OF ERIC A. SHORE, P.C.
1500 John F. Kennedy Blvd, Suite 1240
Philadelphia, PA 19102
(215) 627-9999
Attorney for Plaintiff, Carmen Lamberty

Date: 5/29/2020